

Introduced by Senator Bowen

December 8, 2000

An act to amend Sections 335 and 341.2 of, and to repeal and add Sections 337 and 338 of, the Public Utilities Code, relating to public utilities.

LEGISLATIVE COUNSEL'S DIGEST

SB 47, as introduced, Bowen. Electrical restructuring: Independent System Operator: Power Exchange.

The existing restructuring of the electrical services industry provides for the authorization of direct transactions between electricity suppliers and end use customers and for the establishment of an Independent System Operator and a Power Exchange. An Electricity Oversight Board is also established to oversee the Independent System Operator and the Power Exchange. The Oversight Board has the exclusive right to approve procedures for the election, submission for confirmation, and qualification for Independent System Operator and Power Exchange governing board members, all of whom are required to be electricity consumers in the area served by the Independent System Operator and the Power Exchange. The governing boards are required to include representatives of investor-owned utility transmission owners, publicly owned utility transmission owners, nonutility electricity sellers, public buyers and sellers, private buyers and sellers, industrial end users, commercial end users, residential end users, agricultural end users, public interest groups, and nonmarket participant representatives. A simple majority of each board is required to consist of persons who are themselves unaffiliated with electric generation, transmission, or distribution corporations. The structural composition of the governing boards existing on July 1, 1999, is

required to remain in effect until an agreement with a participating state is legally in effect. However, prior to that agreement, the state retains the right to change each governing board into a nonstakeholder board. If that legislative change occurs, revised bylaws are required to be filed with the Federal Energy Regulatory Commission under a specified provision of federal law.

This bill, instead, would require that the Independent System Operator and Power Exchange governing boards be composed of 3 independent directors appointed by the Governor, and subject to confirmation by the Senate.

The bill would prohibit a member of the independent governing board appointed by the Governor from being affiliated with any actual or potential participant in any market administered by the Independent System Operator or the Power Exchange.

The bill would require the board to require the articles of incorporation and bylaws of the Independent System Operator and the Power Exchange to be revised, and to make filings with the Federal Energy Regulatory Commission as the board determines to be necessary.

The bill would make other, conforming changes in existing law.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 335 of the Public Utilities Code is
2 amended to read:

3 335. In order to ensure that the interests of the people of
4 California are served, a five-member Electricity Oversight Board
5 is hereby created as provided in Section 336. For purposes of this
6 chapter, any reference to the Oversight Board shall mean the
7 Electricity Oversight Board. Its functions shall be all of the
8 following:

9 (a) To oversee the Independent System Operator and the Power
10 Exchange.

11 ~~(b) To determine the composition and terms of service and to~~
12 ~~exercise the exclusive right to decline to confirm the appointments~~
13 ~~of specific members of the governing boards of the Independent~~
14 ~~System Operator and the Power Exchange, as specified in~~
15 ~~subdivision (d).~~



1 ~~(e) To serve as an appeal board for majority decisions of the~~
2 ~~Independent System Operator governing board, as they relate to~~
3 ~~matters subject to exclusive state jurisdiction, as specified in~~
4 ~~Section 339.~~

5 ~~(d) Those members of the Independent System Operator and~~
6 ~~Power Exchange governing boards whose appointments the~~
7 ~~Oversight Board has the exclusive right to decline to confirm~~
8 ~~include proposed governing board members representing~~
9 ~~agricultural end-users, industrial end-users, commercial~~
10 ~~end-users, residential end-users, end-users at large, nonmarket~~
11 ~~participants, and public interest groups.~~

12 SEC. 2. Section 337 of the Public Utilities Code is repealed:

13 ~~337. The Oversight Board shall have the exclusive right to~~
14 ~~approve procedures for the election and submission for~~
15 ~~confirmation and the qualifications for Independent System~~
16 ~~Operator governing board members specified in subdivision (d) of~~
17 ~~Section 335, all of whom shall be required to be electricity~~
18 ~~consumers in the area served by the Independent System Operator.~~
19 ~~The Independent System Operator governing board shall include,~~
20 ~~but not be limited to, representatives of investor-owned utility~~
21 ~~transmission owners, publicly owned utility transmission owners,~~
22 ~~nonutility electricity sellers, public buyers and sellers, private~~
23 ~~buyers and sellers, industrial end-users, commercial end-users,~~
24 ~~residential end-users, agricultural end-users, public interest~~
25 ~~groups, and nonmarket participant representatives. A simple~~
26 ~~majority of the board shall consist of persons who are themselves~~
27 ~~unaffiliated with electric generation, transmission or distribution~~
28 ~~corporations. The structural composition of the Independent~~
29 ~~System Operator governing board existing on July 1, 1999, shall~~
30 ~~remain in effect until an agreement with a participating state is~~
31 ~~legally in effect. However, prior to such an agreement, California~~
32 ~~shall retain the right to change the Independent System Operator~~
33 ~~governing board into a nonstakeholder board. In the event of such~~
34 ~~a legislative change, revised bylaws shall be filed with the Federal~~
35 ~~Energy Regulatory Commission under Section 205 of the Federal~~
36 ~~Power Act (16 U.S.C.A. Sec. 824d).~~

37 SEC. 3. Section 337 is added to the Public Utilities Code, to
38 read:

39 337. (a) The Independent System Operator governing board
40 shall be composed of three independent directors appointed by the

Governor, and subject to confirmation by the Senate. Any reference in this chapter or in any other provision of law to the Independent System Operator governing board means the independent governing board appointed under this subdivision.

(b) A member of the independent governing board appointed under subdivision (a) may not be affiliated with any actual or potential participant in any market administered by the Independent System Operator.

(c) (1) All appointments shall be for three-year terms.

(2) There is no limit on the number of terms that may be served by any member.

(d) The Oversight Board shall require the articles of incorporation and bylaws of the Independent System Operator to be revised in accordance with this section, and shall make filings with the Federal Energy Regulatory Commission as the Oversight Board determines to be necessary.

SEC. 4. Section 338 of the Public Utilities Code is repealed:

~~338. The Oversight Board shall have the exclusive right to approve procedures and the qualifications for Power Exchange governing board members specified in subdivision (d) of Section 335, all of whom shall be required to be electricity customers in the area served by the Power Exchange. The Power Exchange governing board shall include, but not be limited to, representatives of investor-owned electric distribution companies, publicly owned electric distribution companies, nonutility generators, public buyers and sellers, private buyers and sellers, industrial end-users, commercial end-users, residential end-users, agricultural end-users, public interest groups, and nonmarket participant representatives. The structural composition of the Power Exchange governing board existing on July 1, 1999, shall remain in effect until an agreement with a participating state is legally in effect. However, prior to such an agreement, California shall retain the right to change the Power Exchange governing board into a nonstakeholder board. In the event of such a legislative change, revised bylaws shall be filed with the Federal Energy Regulatory Commission under Section 205 of the Federal Power Act (16 U.S.C.A. Sec. 824d).~~

SEC. 5. Section 338 is added to the Public Utilities Code, to read:

1 338. (a) The Power Exchange governing board shall be
2 composed of three independent directors appointed by the
3 Governor, and subject to confirmation by the Senate. Any
4 reference in this chapter or in any other provision of law to the
5 Power Exchange governing board means the independent
6 governing board appointed under this subdivision.

7 (b) A member of the independent governing board appointed
8 under subdivision (a) may not be affiliated with any actual or
9 potential participant in any market administered by the Power
10 Exchange.

11 (c) (1) All appointments shall be for three-year terms.

12 (2) There is no limit on the number of terms that may be served
13 by any member.

14 (d) The Oversight Board shall require the articles of
15 incorporation and bylaws of the Power Exchange to be revised in
16 accordance with this section, and shall make such filings with the
17 Federal Energy Regulatory Commission as the Oversight Board
18 determines to be necessary.

19 SEC. 6. Section 341.2 of the Public Utilities Code is amended
20 to read:

21 341.2. The Bagley-Keene Open Meeting Act (Article 9
22 (commencing with Section 11120) of Chapter 1 of Part 1 of
23 Division 3 of Title 2 of the Government Code) applies to meetings
24 of the Oversight Board. In addition to the allowances of that act,
25 the Oversight Board may hold a closed session to ~~consider the~~
26 ~~appointment of one or more candidates to the governing board of~~
27 ~~the Independent System Operator or the Power Exchange,~~
28 ~~deliberate on matters involving the removal of a member of the~~
29 ~~governing board of the Independent System Operator or the Power~~
30 ~~Exchange, or to consider a matter based on information that has~~
31 ~~received a grant of confidential status pursuant to regulations of~~
32 ~~the Oversight Board, provided that any action taken on any of these~~
33 ~~matters that matter~~ shall be taken by vote in an open session.